

Advisory Opinion Request on Patents & Export Control Requirements

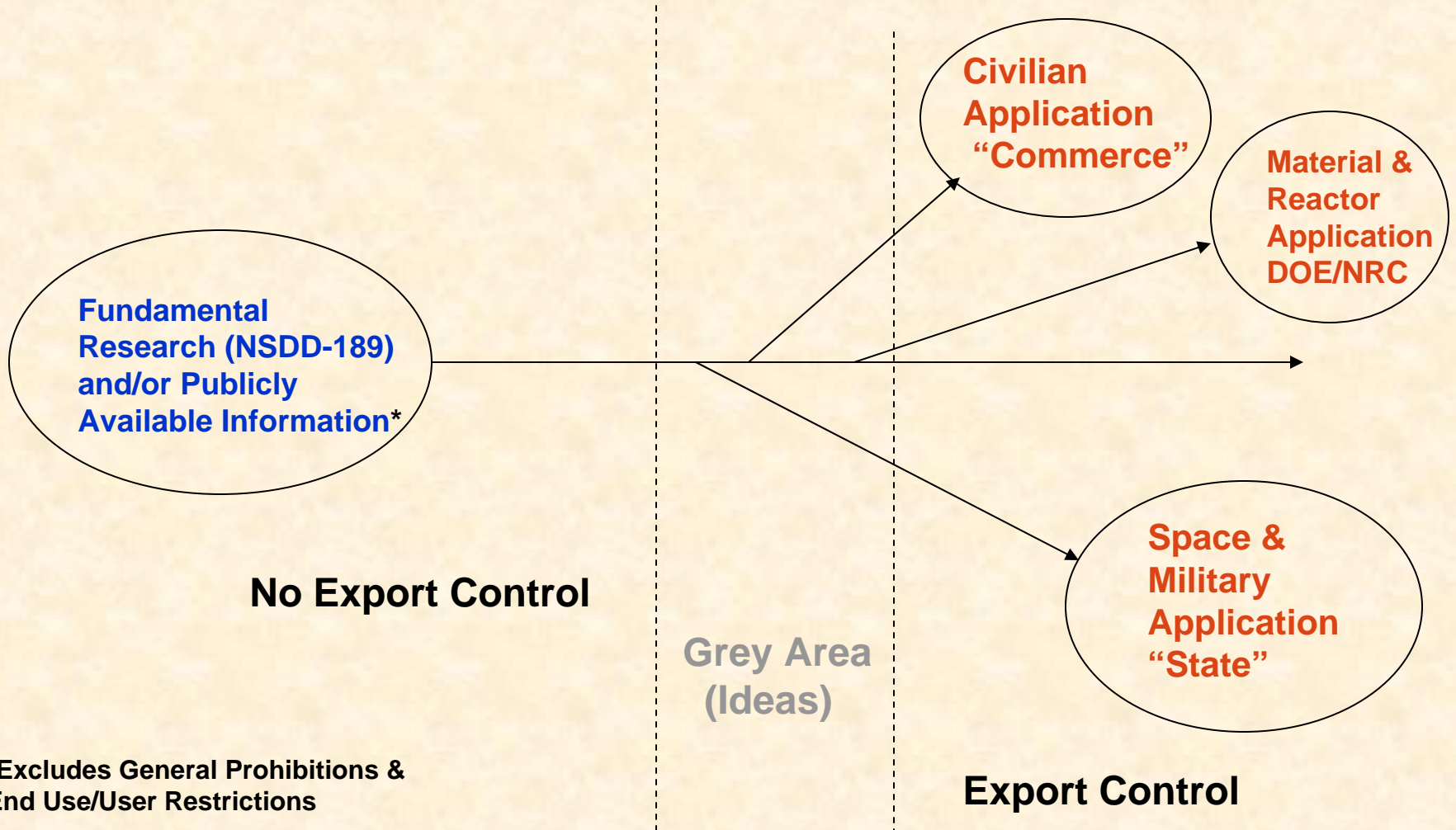
**Provide a overview of a submission to
DOC for an Advisory Opinion**

“Submitted & Pending”

Advisory Opinion Request on Patents & Export Control Requirements

- **ORNL has an active Intellectual Property and Licensing Program**
- **ORNL has many Foreign National Scientist & Researchers**
- **Nexus of Patent & Export Control Requirements are not clear**

Technology Evolution



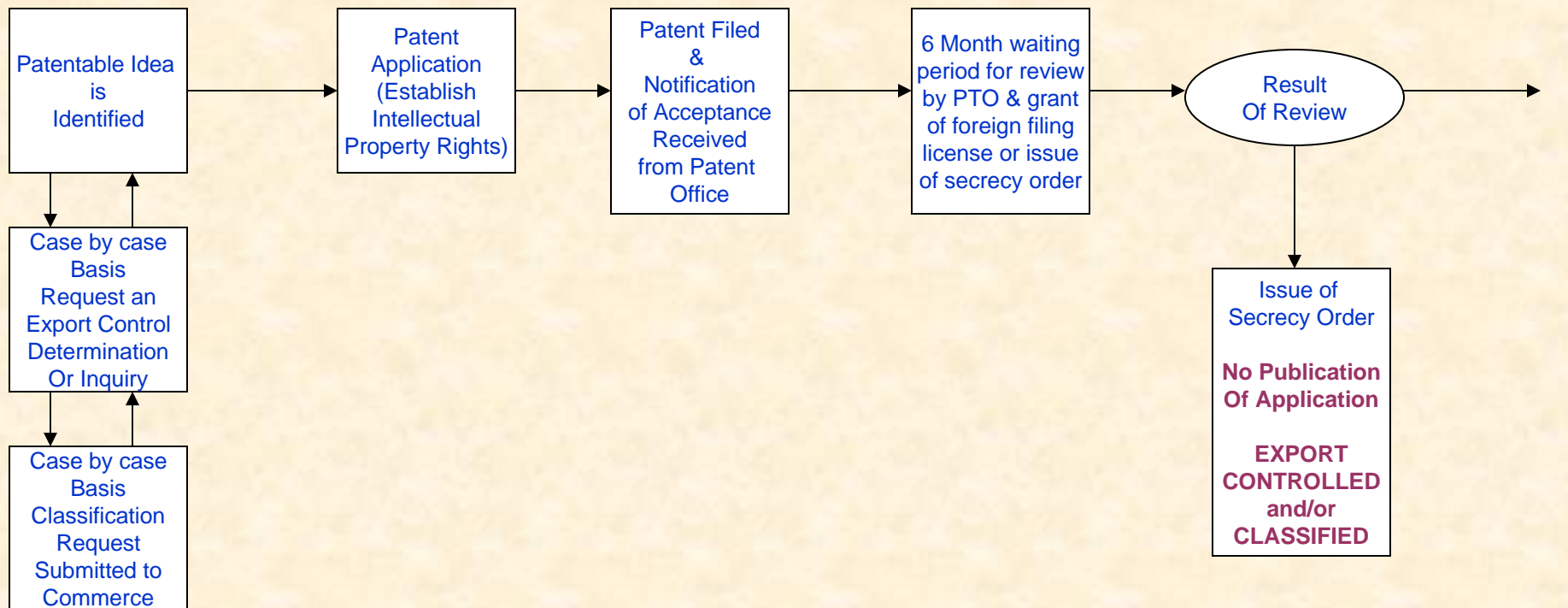
Generalized Characteristics of Technology Evolution*

Fundamental Research (FR) & Publicly Available (PI) Information**	Gray Area Moving From FR/PI to Export Controlled (EC) Technology	Export Controlled Areas, Applications and Intended Use
<ul style="list-style-type: none"> • Open Research – fundamental & applied • Found in the public domain – released without restriction • No proprietary or intellectual property considerations • Not associated with an area excluded by General Prohibitions, End Use and End User Restrictions • Intended or held out for the General Public • Issued by the U.S. Government with the intent of Openly Releasable • Data gathering or Note taking 	<ul style="list-style-type: none"> • Author or Sponsor begin to discuss restricting dissemination • Approaching or getting close to application • Knowing or suspecting that the ultimate achievement of the objective will be controlled • Thinking about intellectual property • Thinking about licensing the technology • Preliminary optimization leading to design alternative • Thinking about making the technology or information proprietary 	<ul style="list-style-type: none"> • An area identified by the U.S. Government Agency as being Export Controlled • Technology/information held out as proprietary or has intellectual property (declaration) • Conveying or teaching technology, processes with the intent of transferring Know-How abroad • Detailed Design that conveys Know-How • Operating & Maintenance Manuals • Technology Transfer - Material that helps or supports EC Technology
No Export Control	Grey Area	Export Control

* Note: Each technology area may use different terms/processes that needs to be taken into account. The degree of rigor is highly dependent on the criticalness of the technology under development.

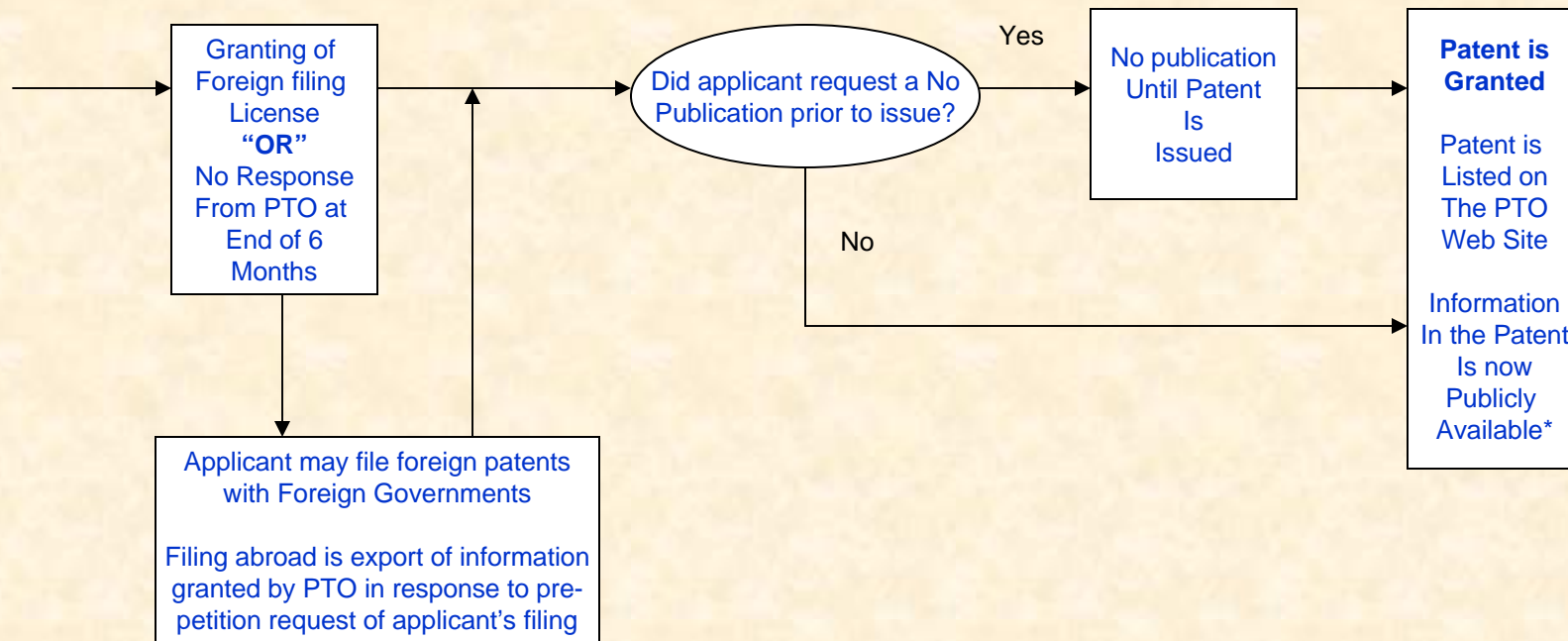
**Excludes General Prohibitions & End Use/User Restrictions

Advisory Opinion Request on Patents & Export Control Requirements



In this timeframe the patent information is controlled under the EAR and release (export and/or deemed export) may required a license prior to Patent Issuance

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* Information not in the patent itself & product as a result of the patent can still be export controlled and Licensable

In this timeframe technology is controlled under the EAR and release (export and/or deemed export) may required a license prior to Patent Issuance

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- **Does a Foreign National who is the inventor require an export license?**
- **Does filing a Foreign Patent Application constitute an export?**
- **Does release of Patent Information prior to PTO publication under the EAR?**
- **Does Trade Secrets and/or Products associated with the Patent export controlled and not covered under the Publicly Available Information exemption?**